North Central Regional Transit District (NCRTD)

Resolution 2015-19

ADOPTION OF AN AMENDED NCRTD ADVERTISING POLICY

WHEREAS, the NCRTD Board on June 1, 2012 reviewed and agreed to an NCRTD Advertising Policy; and

WHEREAS, after two years in place, upon review it was determined that updates and modifications to address open and public forums, qualified public service announcements and to Section 5.0 "Non-Permissible Advertising" would strengthen the Policy; and

WHEREAS, the NCRTD desires to implement and move forward with the policy as amended herewith to more clearly define the plan, its goals and intentions.

NOW THEREFORE BE IT RESOLVED THAT THE NCRTD ADVERTISING POLICY IS APPROVED AND ADOPTED AS AMENDED AND ATTACHED HERETO AS EXHIBIT "A" FOR FISCAL YEAR 2015 ON THIS 5TH DAY OF JUNE, 2015.

Daniel Barrone, Chair

Approved as to form:

Mark Basham, Counsel

NORTH CENTRAL REGIONAL TRANSIT DISTRICT

ADVERTISING POLICY

1.0 PURPOSE

1.1 To generate revenues to support the promotional activities offered by the North Central Regional Transit District (NCRTD), which may offer space on NCRTD-owned, controlled or managed property, as permitted by law, for local, regional, and national advertising opportunities.

1.2 This policy specifically addresses cash revenue-generating advertising opportunities on NCRTD-managed properties, consisting of: (1) print advertising on the exterior of NCRTD buses; (2) print advertising displayed on bus shelters in the District's service area; (3) print advertising on the interior of buses; and (4) limited advertising on the exterior of buses in the form of a wrap. This Advertising Policy (Policy) shall apply to the sale of all advertising on all Transit property owned and/or managed by the District. The NCRTD's fundamental purpose in accepting transit advertising is to generate revenue to augment its operating budget operations. The District will accept advertising on its buses only if such advertising complies with this Advertising Policy.

1.3 All advertising shall be subject to this uniform, viewpoint-neutral Policy so as to avoid to the maximum extent possible, the need for case-by-case interpretation and application of the Policy. By not allowing Non-Permissible Advertising, outlined in Section 6, NCRTD can: (a) maintain a professional advertising environment that maximizes advertising revenues and minimizes interference with or disruption of the transit systems; and (b) maintain an image of neutrality on political, religious or other issues that are not the subject of commercial advertising and can be the subject of public debate.

1.4 The NCRTD's acceptance of advertising does not provide or create a general public forum for expressive activities. The NCRTD does not intend its acceptance of advertising to convert its buses to open public forums for public discourse and debate. Rather, as noted, the NCRTD's fundamental purpose and intent is to accept advertising as an additional means of generating revenue to support its operations. In furtherance of that discreet and limited objective, the District retains strict control over the nature of the ads accepted for posting on or in its buses and maintains its advertising space as a limited public forum.

In the NCRTD's experience, certain types of advertisements interfere with the program's primary purpose of generating revenue to benefit the transit system. This policy advances the advertising program's revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from operations, and/or posing significant risks of harm, inconvenience, or annoyance to passengers.

operators and vehicles. Such advertisements create an environment that is not conducive to achieving increased revenue for the benefit of the buses or to preserving and enhancing the security, safety, comfort and convenience of its operations. The viewpoint neutral restrictions in this policy thus foster the maintenance of a professional advertising environment that maximizes advertising revenue.

The policy is intended to provide clear guidance as to the types of advertisements that will allow the District~~t~~ to generate revenue and enhance transit operations by fulfilling the following goals and objectives:

- Maximizes advertising revenue
- Preventing the appearance of favoritism;
- Preventing the risk of imposing demeaning or disparaging views on a captive audience;
- Maintaining a position of neutrality on controversial issues;
- Reducing the diversion of resources from operations that is caused by demeaning, disparaging, objectionable, inappropriate or harmful advertisements.

The buses are a limited public forum and, as such, the District will accept only that advertising that falls within the categories of acceptable advertising specified in this viewpoint neutral policy and that satisfies all the other access requirements and restrictions provided herein.

The NCRTD reserves the right to suspend, modify or revoke the application of any of the standards in this Policy as it deems necessary to comply with legal mandates, to accommodate its primary transportation function, or to fulfill the goals and objectives identified above. All of the provisions in this Policy shall be deemed severable.

2.0 DEFINITIONS

2.1 "Advertising" means the purchase of space on NCRTD property to propose a commercial transaction for good or services.

2.2 "Compensation" means financial compensation paid to the NCRTD including but not limited to a lump sum, per-unit, or percentage of the amount received from sale of goods or services.

2.3 "District" refers to NCRTD operating entities that may include several "Cities/Counties" that share similar elements in their service functions; an example of a District would be the NCRTD membership.

2.4 "Property" may include NCRTD-owned, controlled or managed vehicles, equipment, shelters, signs, facilities, structures and buildings.

3.0 POLICY

3.1 The Public information Officer or Designee may seek designation of space as appropriate and available on NCRTD-managed property under his or her management for advertising and the value of the space.

3.2 A request for such a designation will be forwarded to the Executive Director for approval.

3.3 When the Executive Director approves the designation of space as appropriate and available on NCRTD-managed property for advertising, the Public Information Officer and the Executive Director will determine the optimal method for implementing an advertising program. It is anticipated that in most cases, management of advertising programs will be accomplished by entering into agreements with a private advertising sales contractor. This does not preclude the option of managing an advertising program in-house.

3.4 Agreements and contracts for an advertising sales contractor and commissions must follow the District's Procurement Policy.

3.5 This policy does not require that the NCRTD grant all requests to permit advertising on any NCRTD-managed property.

3.6 Recognizing that "The Blue Bus" is a critical component of NCRTD branding, requests for bus wraps will be reviewed to insure that element of the bus' identity is not overtaken. Wrapping will be limited to the middle sides of the buses and the Public Information Officer and Executive Director will ascertain the number of vehicles in the fleet that may be wrapped at any one time.

3.7 All advertisements must clearly and unambiguously identify the person or entity that has sponsored, paid for, or caused the advertisement or announcement to be placed. Website addresses or phone numbers without more information are insufficient to satisfy this section.

3.8 RTD will adhere to all local ordinances and signage codes for advertising on any of its fixed properties.

4.0 ADVERTISING CONTENT

4.1 The subject matter of all advertising shall be limited to speech which proposes solely a commercial transaction for goods and services or qualified Public Service

Announcements as defined below. The advertisements must contain only expressions related to the economic interest of the advertiser and its audience.

4.2 ~~If the advertising program permits, s~~Specific opportunities for non-commercial advertising, such as making available a stated percentage of space for public service announcements (PSAs) may be permitted at the discretion of the NCRTD. PSAs are advertisements that promote public health, safety and awareness of existing laws or social welfare programs on a non-partisan basis. PSAs ~~, that advertising~~ shall not contain offers to purchase any item or service. Upon the District's request, any non-profit entities proposing a PSA must document their tax-exempt status before qualifying for any PSA opportunities. If the non-profit agency offers items or services available for purchase, the standard advertising rates ~~would~~ apply.

4.3 Advertising and marketing opportunities and associated agreements must conform to these requirements:

4.3.1 Opportunities for external parties to participate in commercial advertising will be fair and neutral. No single business, enterprise or entity shall be given preferential treatment with the sole exception of the NCRTD itself and its constituent public entity members who may, in the sole discretion of the NCRTD be given preferential treatment.

4.3.2 Advertising agreements shall comply with applicable federal, state, and local laws and ordinances.

4.3.3 Advertisers shall refrain from advertising practices that are offensive or objectionable to the public and shall abide by federal, state, and local laws/ordinances.

4.3.4 Advertisements cannot promote a commercial transaction that is expressly prohibited by federal, state or local law or regulations. (addressed below)

4.3.5 Advertisers' promotional materials and/or claims may not include false, misleading, or deceptive claims.

4.3.6 The NCRTD retains the right to control placement, content, appearance, and wording of advertising messages.

5.0 NON-PERMISSIBLE ADVERTISING

5.1 In general, advertising shall not be accepted for advertisements:

5.1.1 Promoting tobacco-related products, including depicting the sale or use of tobacco.

5.1.2 Promoting alcohol-related products, including promoting or depicting the sale or consumption of alcohol.

5.1.3 Containing nudity, or sexual content in the ad. This includes prurient sexual suggestiveness that describes, depicts, or represents sexual activities or aspects of the human anatomy.

~~5.1.4 Promoting gaming/gambling. However, promotion of, resorts and associated hotels will be permitted whether or not they are affiliated with gaming and gambling facilities so long as the advertising does not contain reference to gaming or gambling activities and facilities.~~

5.1.~~4~~5 Promoting weapons/firearms, where the advertisement or any material contained in it, directly or indirectly promotes the sale or use of a firearm. ~~or contains an image or depiction of a firearm.~~

5.1.~~5~~6 Depicting violence, including any images or descriptions of graphic violence, such as (1) the depiction of human or animal bodies or body parts, or fetuses, in states of mutilation dismemberment, decomposition, or disfigurement, and (2) the depiction of weapons or other implements or devices associated in the advertisement with an act or acts of violence or harm to a person or animal.

5.1.~~6~~7 Regarding religion, which is defined as any advertisement that contains direct references to religion, or to any religion, or to any deity or deities, or to any religious creed, the existence, nonexistence or other characteristics of any deity or deities, or to any religious creed, denomination, belief, tenant, cause or issue relating (including opposing or questioning) any religion. This prohibition shall include the depiction of any commonly associated text, symbols, or images associated with such religions. This prohibition does not extend to the use of symbols integrated into the elements of a commercial enterprise's logo, the architecture of buildings, or other symbols or images of historical places or figures where the images are a component of an established business or attraction and are not a promotion of a religion or religious activity.

5.1.~~7~~8 Regarding political activities and opinions, which are defined as advertisements that ~~are political in nature~~, contain ~~political~~ messages on matters of public policy other than PSA's as defined above, or involve ~~political~~ topics, ~~including advertisements~~ involving ~~political figures or~~ elected officials and candidates for public office, advertisements involving political parties or political affiliations, and/or advertisements ~~involving an issue reasonably deemed to be political in nature in~~ that it directly or indirectly endorses or implicates the action, inaction, prospective action, or policies of a government entity. ~~contain political speech referring to a particular ballot question, initiative, petition, referendum, candidate, or political party or viewpoint, or expresses or advocates opinions or positions upon any of the foregoing. This prohibition includes any advertisement referring to or depicting a candidate for public office in any context.~~

5.1.9 Regarding adult-oriented entertainment goods or services involving sexual activities such as advertisements that promote or encourage, or appear to promote or encourage adult entertainment establishments, adult telephone services, internet sites and escort services.

5.1.910 Containing demeaning or disparaging content such as advertising that includes language, pictures or other graphic representations that are derogatory or defamatory of any person or group because of race, color, national origin, ethnic, background, age, disability, ancestry, marital or parental status, military discharge status, source of income, religion, gender or sexual orientation.

5.1.1011 Containing profanity, vulgarity, or inflammatory language including any material that may inflame emotions, cause a riot, or other imminent threat to public safety, peace or order.

5.1.112 Implying the NCRTD's endorsement of any product, service, company or person.

6.0 EARNED REVENUE AND BUDGET PROCESS

6.1 Revenue from advertisements and commissions shall generally be reflected as revenue for the NCRTD's marketing and advertising budget unless otherwise directed by the NCRTD Board. Only guaranteed advertising revenues such as the revenue commitments in a multi-year advertising agreement should be included in the fiscal year budget although the staff should disclose any potential revenue or potential shortfall in revenue when the information is available and reliable.

6.2 Prior to a mid-year budget adjustment, advertising revenue projections will be assessed and, if necessary, a Budget Adjustment Request (BAR) will be initiated to address any projected increase or decrease in revenue.

6.3 Advertising revenues shall generally be considered additional revenues for the NCRTD's marketing and advertising budget. The NCRTD's approved budget should not be decreased by the amount of advertising revenues unless expressly required by the NCRTD Board.